IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9023 OF 2005

Larsen Toubro Ltd. .. Petitioner.

V/s.

The Union of India & Ors. .. Respondent.

Mr.Prakash Shah i/b. PDS Legal for the petitioner.

Mr.A.J. Rana, senior advocate with Mrs.S.V. Bharucha for the respondents.

CORAM : DR.S. RADHAKRISHNAN & J.P. DEVADHAR, JJ.

DATED : 18TH JANUARY, 2006.

P.C. :

1. Rule. Rule made returnable forthwith.

2. Heard the learned counsel for the petitioner and the respondents.

3. The learned counsel for the respondents waives service.

4. By consent of the parties, taken up for final hearing.

5. The petitioner is challenging the order dated 4th October, 2005 only with regard to Appeal No.E/90/2000 (Mum) filed by the respondent No.3. The

main grievance of the petitioner is that the above appeal was filed in the year 2000 and it came up for final hearing after almost a period of four years and the petitioners had received the notice with regard to the hearing on 30th September, 2005 informing them that the matter is kept for final hearing on 3rd October, 2005. 1st and 2nd of October, 2005 were Saturday and Sunday and as such the period given was too short for the petitioners even to take appropriate steps to engage their advocates to appear in the above matter and putforth their case. However, the matter did not reach on 3rd October, 2005. The same was reached on 4th October, 2005 and the matter has been disposed of on merits in absence of the petitioner.

6. The only grievance of the petitioners that the petitioners ought to have been given a fair opportunity of hearing to place their case before the CESTAT in larger interest of justice.

7. In the aforesaid facts and circumstances of the case, we are inclined to quash and set aside the order dated 4th October, 2005 passed by the CESTAT only with regard to Appeal No.E/90/2000 (Mum). The CESTAT shall hear the said appeal afresh strictly on its own merits in accordance with law as

expeditiously as possible.

8. The writ petition stands disposed of. Rule is made absolute in above terms with no order as to costs.

(DR.S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)